

TV Watch on Spy Suspect Approved by President

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President Carter personally approved secret television surveillance of an American recently accused of stealing classified diplomatic cables for an international network of Vietnamese Communist agents, officials familiar with the case said yesterday.

The television monitoring of the office of U.S. Information Agency employe Ronald Louis Humphrey, according to sources, was done without a court order. It was the first such warrantless surveillance authorized by the Carter administration against an American citizen in a national security case.

The trial of Humphrey and David Truong (also known as Truong Dinh Hung), the Vietnamese

native also charged in the case, is likely to provide a major new test of the inherent powers a president can invoke in the name of national security.

This is so, legal experts said yesterday, because the television monitoring is said to have produced much of the government evidence in the case, and because the legal basis for such warrantless surveillance is unclear.

The disclosure of the surveillance may explain some of the importance Justice Department officials have attached to the case. "The department wants blood on this one," said one Justice Department source yesterday.

Electronic surveillance of Americans is permitted without a court order only in national security

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HUMPHREY, From A1

cases. The Supreme Court has never ruled in the constitutionality of such presidential power. And, although a few cases have upheld such executive right, the most recent circuit court ruling said the president has no such inherent power.

Attorney General Griffin B. Bell also approved a warrantless wiretap of Truong during the investigation, under a more general authority from the president, officials said yesterday. Warrants for such surveillance can be obtained from judges during criminal investigations such as espionage cases.

One well-placed Justice Department official said yesterday that a warrant was not sought in the Vietnamese spy case because it wasn't clear at first that a criminal prosecution would result.

The official emphasized that Carter and Bell took great precautions not to unnecessarily intrude on the rights of American citizens in such cases, and that the television surveillance of Humphrey's office wasn't considered "especially intrusive."

"We didn't listen in on his phone or bug his house," the official said. "But we wanted to know what he was taking and who he was giving it to."

Humphrey's attorney, A. Andrew Giangreco conceded yesterday dur-

ing a court hearing in Richmond that his client had admitted in a signed statement that he removed the classified cables cited in the seven-count indictment and gave them to Truong.

The attorney argued that his client, the first USIA employe ever charged with espionage, "did not know" that Truong might be working with the Vietnamese government.

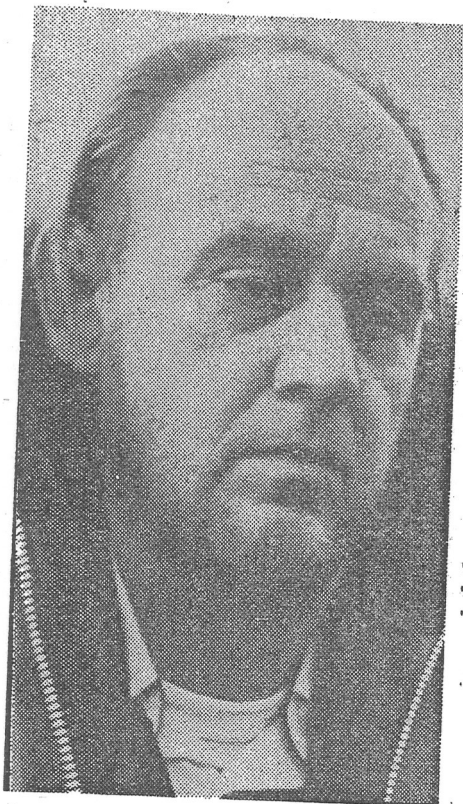
This was immediately challenged by prosecutor Frank W. Dunham Jr., who said the government has "evidence to believe he (Humphrey) had reason to believe that Hung (as Truong is also known) was an agent of Vietnam."

Giangreco said during the argument for a lower bond for Humphrey that he would challenge the legality of any evidence produced by warrantless surveillance.

A government lawyer said later that Giangreco probably did not realize at the time the nature or extent of the surveillance used on Giangreco client.

Although various presidents have asserted their right to take drastic steps on the grounds of national security, there is no clear court precedent establishing the constitutionality of such action.

Nixon administration officials claimed during the Watergate scandal that some of the acts undertaken by the so-called White House "plumbers" unit, including illegal entries, were



RONALD LOUIS HUMPHREY
... surveillance without warrant

justified on grounds of national security. But courts rejected the arguments.

A Justice Department spokesman said last night that Bell and Carter had never authorized a warrantless physical search of a person or place.

Bell described the administration's first use of television surveillance of an American citizen, without identifying Humphrey, in a recent letter to the House intelligence committee.

The Jan. 26 letter amended his statement at an earlier hearing where he said that there had been no warrantless electronic surveillance of American citizens in national security cases during his tenure as attorney general.

"In so responding I was referring only to wiretaps and microphone surveillance, traditional forms of electronic surveillance," Bell wrote.

"This technique (television surveillance) is not electronic surveillance in the traditional sense, but it does raise similar legal issues and is included in the definition of that term in proposed legislation.

"In one instance, with the president's approval," the attorney general went on, "I authorized the use of television surveillance of an American citizen in connection with a national security investigation."

Humphrey was the American citizen Bell was referring to, knowledgeable department sources said yesterday.

Proposed legislation supported by the administration would require warrants in all cases of surveillance in national security cases. But in the executive order he released two weeks ago, President Carter retained the right to continue such warrantless searches.

John Shattuck, director of the Washington office of the American Civil Liberties Union, said yesterday that the warrantless surveillance of Humphrey "demonstrates the need for strict controls over all kinds of intelligence gathering. Certainly the president's executive order is a contradiction and failure on that score."

The disclosure of the surveillance overshadowed some startling statements about the cables made in the court yesterday by Giangreco. A former prosecutor, he argued without immediate success, for lowering the \$150,000 bond for Humphrey.

The three judges did not rule on the bond reduction request yesterday, but in their questions they were hardly sympathetic to lowering it. "What business did he have giving away these cables?" Judge H. Ennory Widener Jr. asked at one point.

"He probably had no business giving them to anyone," Giangreco replied. The lawyer said 23 of the cables were classified as "confidential" and contained information of the type that was frequently "leaked" by government officers. At most, an officer accused of passing such cables would be given a reprimand, Giangreco said.

Contents of the cables have yet to be made public.

One of the cables dealt with comments made by an ambassador in Bangkok, Giangreco said, and were remarks that probably appeared the next day in the "Bangkok press."

Dunham responded that "by his own admission—a statement he gave the FBI—he admitted taking classified documents out of the building..."

Humphrey also said he passed the documents to Truong, thus conceding "all of the essential elements" of the indictment except knowing that Truong was a foreign agent, Dunham said. Those acts Humphrey said he has done could subject him to 20 years in prison, Dunham said.

If convicted of espionage, both men could face life sentences. Each man has pleaded innocent.

As he has before, Giangreco, a court-appointed lawyer portrayed his client as a loyal government worker who was providing the sole support for his "common-law" Vietnamese wife and four young Vietnamese children who

live with Humphrey in Arlington. There is no reason to believe this subject is going anywhere because his roots are in the community," the lawyer said.

In his arguments Giangreco disclosed that "several hundred" dollars were paid to Vietnamese officials last year in an effort to gain the release from Hanoi of Humphrey's common law wife and the children she brought with her to the U.S. last fall. Giangreco did not reveal the source of the payments or say how much money was involved.

Despite the payment, the Vietnamese continue to hold a 16-year-old son of the woman as a prisoner, he said.

Later, in an interview, Giangreco said the woman, identified in court records as "Kim Humphrey," is credited by Humphrey with "saving his life" while he served in South Vietnam from 1969 to 1971. While Humphrey was assigned there as one of several hundred USIA representatives, the woman learned of a plot to kill Humphrey as he toured the countryside with two South Vietnamese soldiers, the lawyer said.

When Humphrey told Army officials of the plan they brushed the report aside, Giangreco said. Humphrey refused to accompany the soldiers, both of whom were killed later that day when their Jeep struck a land mine, Giangreco said.

Truong is being held in the Alexandria City Jail on \$250,000 bond. District Court Judge Albert V. Bryan Jr. initially set Humphrey's bond at the same level, but later reduced it to \$150,000—an amount that Giangreco said is still too high for his client to post.